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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

SEAN FITZGERALD,

     Plaintiff,

v.

ST. PAUL FIRE AND MARINE
INSURANCE COMPANY,

     Defendant.

Case No. 2:05-CV-00838-KJD-RJJ

ORDER

     Presently before the Court is the Report and Recommendation (#94) of Magistrate Judge Robert J. Johnston recommending that Plaintiff's complaint be dismissed with prejudice as a sanction for Plaintiff's continued failure to obey the orders of the court to provide or permit discovery in accordance with Federal Rule of Civil Procedure 37(b)(2)(A). Though the time for doing so has passed, Plaintiff has failed to file objections to the Report and Recommendation.

     The Court has conducted a *de novo* review of the record in this case in accordance with 28 U.S.C. § 636(b)(1) and LR IB 3-2. The Court finds that the Report and Recommendation (#94) of the United States Magistrate Judge entered December 21, 2007, should be adopted and affirmed. Particularly, the Court has considered the five factors considered in the Magistrate Judge's Report and Recommendation and finds that his reasoning should be adopted and affirmed. It is clear that

1   Plaintiff's repetitious and vexatious conduct was not cured by less harsh sanctions and any other

2   sanction, alternative to dismissal, would be futile.

3   IT IS THEREFORE ORDERED that the Report and Recommendation (#94) of the United

4   States Magistrate Judge entered December 21, 2007, is **ADOPTED** and **AFFIRMED**;

5   IT IS FURTHER ORDERED that Plaintiff's complaint is **DISMISSED with prejudice**;

6   IT IS FURTHER ORDERED that the Clerk of the Court enter **JUDGMENT** for Defendant

7   and against Plaintiff.

8   DATED this 7th day of January 2008.

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11   _____
      Kent J. Dawson

12   United States District Judge

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